

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 90 of 1996

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STATE OF GUJARAT & ANR.

Versus

HEIRS OF DEC.M.P.GARASIYA 1.IBRAHIM M.GARASIYA & ORS.  
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Appearance:

MR DA BAMBHANIA for Petitioner

MR PB MAJMUDAR for Respondent No. 1

MR MUKESH PATEL AGP for Respondent No. 3  
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CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 11/08/1999

ORAL JUDGEMENT

1. The petitioner State of Gujarat challenges in the present petition, the order passed by the Urban Land Tribunal in an appeal under section 33 of the Urban Land (Ceiling & Regulation) Act, 1976.

2. The petitioner has asserted in the petition certain facts which have not been controverted by the respondents. These facts are stated in paras 2 to 4 of the petition, which asserts that the order of the Competent Authority at Annexure B to the petition was already implemented before the order in appeal at Annexure A came to be passed. As a result of the implementation of the order of the Competent Authority, further proceedings followed, that notification under section 10 (3) was published, procedure under section 10(5) was followed, possession under section 10(6) was taken (with the consent of the respondent - land holders) and even thereafter the proceedings under section 11 were maintained. Thus, this was the situation prevailing when the impugned order of the appellate tribunal at Annexure A came to be passed.

3. Even otherwise, the impugned order of the appellate Tribunal merely remands the matter back to the

Competent Authority for reconsideration. Even if the impugned order is sustained, the same cannot now be implemented inasmuch as the Act of 1976 has been repealed. On the other hand, if the impugned order is bad in law and the Court finds it so, the order passed by the Competent Authority would be required to be upheld, which in any case, factually, the petitioner - State of Gujarat has already implemented.

4. Thus, for all practical purposes, the examination of the validity of the impugned order in appeal at Annexure A is a mere academic exercise and serves no useful purpose at all.

5. Thus, this petition is disposed off without entering into the merits of the order at Annexure : A. Rule discharged with no order as to costs.

(Y.B. BHATT, J.)

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